

Examination of the Data Requirements of the Workforce Investment Act and the Perkins Act of 1998

**Draft Report of the
National Postsecondary Education Cooperative
Working Group on Workforce Development**



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Prepared for the National Postsecondary Education Cooperative (NPEC) and its Working Group on Workforce Development by Michael Brustein, under the auspices of the National Center for Education Statistics (NCES), U.S. Department of Education. February 1999.

**National Postsecondary Education Cooperative
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INTRODUCTION

The Workforce Investment Act (WIA), enacted on August 7, 1998, did not embrace the far-reaching workforce consolidation proposals that Congress had originally proposed. Particularly, Congress promised to combine about 150 Federal workforce-related training, education, and support programs and eliminate their differing performance measures, target groups, and eligibility limitations. Consolidated funds would support a unified and universally accessible workforce development system through the delivery vehicle of one-stop centers.

Most of the workforce development programs targeted for inclusion escaped the merger, with the exceptions of the Job Training Partnership Act (JTPA), Adult Education and Family Literacy Act (AEFLA), and the Vocational Rehabilitation Act. The Senate's desire to merge the Carl D. Perkins Vocational and Applied Technology Education Act was frustrated as well.

Despite the failure at far-reaching consolidation, substantial strides have been taken by Congress, through the enactment of the WIA and the subsequent enactment of the Carl D. Perkins Vocational and Technical Education Act of 1998, to eliminate the inconsistency that had existed among the various workforce development accountability requirements. As we move forward with the implementation of these workforce bills, postsecondary institutions will witness a confluence among the Act's data requirements, performance indicators, and definitions of key terms.

At the request of the Workforce Development Working Group of the National Postsecondary Education Cooperative (NPEC), this paper focuses on the data ramification of the WIA and the Perkins Act. The discussion below outlines the role of postsecondary institutions under the WIA and the accountability provisions of the WIA, the AEFLA, and the Perkins Act. Although the AEFLA is included as Title II of the WIA, it is discussed separately in this paper as it is administered differently than Title I and contains separate data collection requirements. This paper also discusses the comparability of data elements and definitions and the barriers to the implementation of the Acts.

In addition to the analysis below, two matrices are attached to this paper which compare the data requirements and definitions contained in the Acts. The Department of Labor Core Data Element Workgroup has identified nine core indicators of success and fifteen additional, non-core measures. Matrix A sets forth the core indicators and indicates whether they are included in the WIA, the AEFLA, and the Perkins Act. Matrix B identifies the key terms used in the Acts and determines if they are used consistently.

THE ROLE OF POSTSECONDARY INSTITUTIONS UNDER TITLE I OF THE WIA

The WIA includes postsecondary educational institutions as key participants in the workforce system. Postsecondary institutions may be (1) members of the State and local boards, (2) one-stop operators, (3) one-stop partners, and (4) eligible service providers.

Representation on State and Local Boards

The Act requires lead State agency officials with responsibility for required activities to be appointed to the State Board. Since postsecondary vocational education under the Perkins Act is a required activity in the one-stop delivery system, a representative from the lead State agency with responsibility for that activity will be a member of the State board. The State board develops the State plan, including the State performance measures, and conducts oversight of the one-stop system. Conflict of interest provisions do not allow a member of the State board to vote on a matter regarding the provision of services by that member or on a matter that would provide direct financial benefit to the member.

Postsecondary educational institutions must also be members of the local boards. The WIA requires representatives on the local board from local education entities, including postsecondary institutions. Local boards carry out a number of functions including development of the local plan, selection of one-stop operators and youth providers, identification of eligible providers of training and intensive services, program oversight, negotiation of local performance measures, and development of employer linkages. The same conflict of interest provisions at the State level are in place for the local board.

One-stop Operator

In addition to State and local board representation, postsecondary institutions may be designated a one-stop operator. The one-stop operator will manage the daily functioning of the local one-stop system. The local board, with the agreement of the chief elected official, designates or certifies one-stop operators and may terminate eligibility for cause. An entity is eligible to receive funds to be a one-stop operator if it is designated as a one-stop operator through a competitive process or it is a consortium of entities that includes three or more one-stop partners. Postsecondary educational institutions are listed as possible one-stop operators in the WIA.

One-stop Partner

In establishing the one-stop delivery system, the local board must enter into memorandums of understanding with one-stop partners. The WIA lists entities carrying out certain programs or activities as "required partners" in the one-stop system, including postsecondary vocational education activities under the Perkins Act. Required one-stop partners must make services available to participants through the one-stop delivery system and must participate in the operation of the system.

In addition, Section 134 of the WIA includes an important provision regarding the required use of funds authorized under other Federal programs included in the one-stop system. The section *requires* that a portion of the funds made available under Federal law authorizing the programs and activities carried out by the required one-stop partners be used to establish the one-stop delivery system and offer core services. This means that a portion of the funds provided under the Perkins Act for postsecondary vocational education activities must be used to establish the one-stop system and provide core services such as information on available courses.

Eligible Service Provider

In order to receive funds as a service provider under the WIA, the provider must be deemed eligible by the local board. The WIA establishes a market driven system that forces postsecondary institutions to compete to become eligible service providers. Participation in the workforce system is driven by increased accountability at every level and requires proven performance in order to receive Federal funds.

The local board makes two separate eligibility determinations: initial eligibility and subsequent eligibility. Postsecondary institutions that are eligible to receive funds under Title IV of the Higher Education Act (HEA) and that provide a program that leads to an associate degree, baccalaureate degree, or certificate are initially eligible to provide training services if they submit a timely application to the local board. In other words, the WIA relieves postsecondary institutions of the requirement to prove current performance or to meet eligibility criteria set forth by the Governor before obtaining initial eligibility to provide services. However, postsecondary institutions must be deemed subsequently eligible.

Institutions of higher education that participate in Title IV programs may also use a different process than other providers to gain subsequent eligibility. The local board or State agency may accept program-specific information that is consistent with the requirements for eligibility under Title IV of the HEA if such information is substantially similar to the State's program-specific information (see below). For other initially eligible providers, the Governor must establish a procedure for use by the local board in determining a service provider's subsequent eligibility to receive funds. The subsequent eligibility determination must include the submission of verifiable performance and program cost information, and a demonstration by the provider that it has annually met the performance measures.¹

Information that must be submitted in order to determine subsequent eligibility includes (1) program completion rates for all individuals participating in the provider's programs, (2) the percentage of all individuals participating in the program who obtained unsubsidized employment, and (3) the wages at the time the individual is placed in employment.² In addition, the provider must also submit training services information, including (1) the percentage of participants who completed the program and were placed in unsubsidized employment, (2) the retention rates in unsubsidized employment after six months, (3) the wages received by participants six months after employment, (4) the rate of licensure or certification or attainment of academic degrees or equivalents, and (5) information on program cost (i.e. tuition or fees) for participants.

Once the local board determines initial and subsequent eligibility, it must submit a list of all approved providers and the performance cost information to the State agency designated by the Governor. The agency will make eligibility determinations, take enforcement actions against providers, and carry out other duties relating to the identification of providers. If the State agency determines within thirty days after the submission of the list that a provider does not meet the performance levels, it may remove that provider from the list. However, the State agency may not remove from the list postsecondary

¹ The local board may require higher levels of performance for subsequent eligibility than the minimum levels set by the state.

² The Governor may require the provider to submit additional verifiable program-specific information.

institutions that are initially eligible under Title IV of the HEA. The State agency must then compile a single list of all eligible providers and distribute it throughout the State. Individuals eligible to receive training services may select any eligible providers from the list, even if they are from a different local area.

In keeping with the emphasis on performance accountability, the WIA includes strict enforcement provisions regarding eligible providers. Eligible providers that perform poorly may lose eligibility to receive Federal funds. In addition, if the State agency or the local board determines that the eligible provider substantially violated any requirement under the Act, the State agency or local board may terminate the provider's eligibility or take any other action it deems appropriate. If the State agency, in consultation with the local board, determines that an eligible provider intentionally provided inaccurate information, the State agency must terminate the provider's eligibility for at least two years. Any provider whose eligibility is terminated is liable for repayment of all funds received during any period of noncompliance.

ACCOUNTABILITY PROVISIONS

Title I of the Workforce Investment Act (WIA)

Chapter 6 of the WIA outlines the performance accountability system at both the state and local level. States and local areas must establish performance measures which include (1) core indicators of performance, (2) customer satisfaction indicators of performance, and (3) any additional indicators of performance that the State chooses to identify in its State plan. The State must then include levels of performance in its State plan for each of the core indicators of performance and the customer satisfaction indicators³. The levels of performance must be expressed in an objective, quantifiable, and measurable form and must show the State's progress in continuously improving performance.⁴

Core Indicators of Performance

Title I of the WIA lists separate core indicators for youth programs and for adult employment and training programs. These indicators do not apply to participants who only receive self-service or information activities. The core indicators of performance for youth programs are:

1. Attainment of basic skills, and, as appropriate, work readiness or occupational skills;
2. Attainment of secondary school diplomas and their recognized equivalents; and
3. Placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

³ The State may identify levels of performance for any additional indicators in the State plan. Such levels will be considered State adjusted levels of performance.

⁴ The Act does not define continuous improvement.

The core indicators of performance for adult employment and training activities and dislocated worker programs are:

1. Entry into unsubsidized employment;
2. Retention in unsubsidized employment six months after entry into employment;
3. Earnings received in unsubsidized employment six months after entry into employment; and
4. Attainment of a recognized credential relating to achievement of educational skills, which may include attainment of a secondary school diploma or its recognized equivalent, or occupational skills by participants who enter unsubsidized employment, or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment.

Customer Satisfaction Indicators of Performance

The customer satisfaction indicators of performance consist of the customer satisfaction of employers and participants with services received from workforce investment activities. Customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

Levels of Performance

The levels of performance must be identified in the State plan for the first three program years covered by the plan. The Secretary of Labor and the Governor must then agree on the levels. In reaching agreement on the performance levels, the Secretary and the Governor will take into account (1) the extent to which the levels involved will assist the state in attaining a high level of customer satisfaction, (2) how the levels compare with the levels of performance of other states (taking account of differences in participants, services provided, and economic conditions), and (3) the extent to which the levels promote continuous improvement in performance. The agreed upon levels become the State's "adjusted levels of performance" for the first three years and are formally incorporated into the State Plan.

Prior to the fourth program year, the Secretary of Labor and the Governor must agree upon levels for the fourth and fifth years of the State Plan. The Governor may request approval from the Secretary to revise the state adjusted levels for any of the five years if there is a significant change in circumstances.

The performance measures of the local areas consist of the core indicators, customer satisfaction indicators, and additional indicators set forth in the State plan. Each local area must establish levels of performance for each of the indicators. The local board, chief elected official, and the Governor must agree on the local levels of performance, taking into account the specific characteristics of the population served by the local area.

Sanctions for Failure to Meet State Performance Measures

If a State fails to meet the state adjusted levels of performance for a program for any program year, the Secretary must, upon request, provide technical assistance. Such assistance may include assistance in the development of a performance improvement plan.

If a State fails to meet the adjusted levels for a second consecutive year, or if the State fails to submit its annual report for any program year, the Secretary of Labor may reduce the amount of the grant that would be available to the State for the immediate succeeding program year by not more than 5 percent. The penalty must be based on the degree of failure to meet State adjusted levels of performance. The funds retained by the Secretary for failure to meet the levels of performance will be added to the funds available for incentive grants.

Sanctions for Failure to Meet Local Performance Measures

If the local area fails to meet local levels of performance for a program for any program year, the Governor, or upon request by the Governor, the Secretary of Labor, must provide technical assistance. Such assistance may include the development of a performance improvement plan or a modified local plan.

If the local area fails to meet the performance levels for a second consecutive year, the Governor must take corrective actions, which may include the development of a reorganization plan. The Governor, through the reorganization plan, may (1) require the appointment and certification of a new local board, (2) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance, or (3) take such other actions as the Governor deems appropriate.

A local area that is subject to a reorganization plan may, within 30 days after receiving notice of the plan, appeal to the Governor to rescind or revise the plan. The Governor must make a final decision on any such appeals not later than 30 days after the receipt of the appeal. The Governor's decision is effective at the time it is issued and remains effective unless the Secretary of Labor rescinds or revises the plan.

National Comparability of Performance Data

Title I of the WIA includes a section regarding the comparability of performance data. The section states that in order to assure nationwide comparability of data, the Secretary of Labor, after collaboration with representatives of other federal agencies and state and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, shall issue (1) definitions for information required to be reported, (2) terms for menus of additional indicators of performance to assist States in assessing their progress toward State workforce investment goals, and (3) objective criteria and methods for making revisions to the levels of

performance.⁵ Similarly, under the Perkins Act, the Secretary of Labor must work with the Secretary of Education to develop uniform definitions so as to ensure comparability of data.

Reports

The State must annually submit a report to the Secretary of Labor regarding the State's progress in achieving its performance measures. The report must include information on the levels of performance achieved by the state as to the core indicators of performance and the customer satisfaction indicators. The report must also include information regarding the progress in achieving local performance measures. In addition, the State must include information on participants in workforce investment activities relating to:

1. Entry, by participants who have completed training services in both adult employment training programs and dislocated worker programs, into unsubsidized employment;
2. Wages at entry into unsubsidized employment, including the rate of wage replacement for dislocated workers;
3. Cost of workforce investment activities relative to the effect of the activities on the performance of participants;
4. Retention and earnings received in unsubsidized employment twelve months after entry into employment;
5. Performance with respect to the indicators of performance of participants in workforce investment activities who received training services compared with the performance of participants in workforce investment activities who received only services other than training; and
6. Performance with respect to the performance indicators for recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced workers, and older individuals.

State Evaluations

The State, in coordination with the local boards, must conduct ongoing evaluation studies of workforce investment activities. States must, to the maximum extent practicable, coordinate their evaluations with the evaluations carried out by the Secretary of Labor. State evaluations must be designed in conjunction with the State and local boards and must include an analysis of customer feedback as well as outcome and process measures in the statewide workforce investment system. The

⁵ The requirement for the development of standard definitions is prevalent throughout recent legislation. As in the workforce investment legislation, the Higher Education Act of 1998 requires the Commissioner of Education Statistics to develop standard definitions for statutory data elements.

evaluations may include the use of control groups. The state must periodically submit reports containing the results of the evaluations to the State board and the local boards.

Adult Education and Family Literacy Act (AEFLA)

The AEFLA is contained in Title II of the Workforce Investment Act. Congress has leveled the playing field in this Act by requiring the State eligible agency to use one Request for Proposals (RFP) for all eligible providers. Postsecondary institutions must now compete with the universe of providers for funding under multiyear grants and contracts.

Section 212 of the AEFLA requires state and local program administrators to establish a comprehensive accountability system. The accountability system will assess the "continuous improvement" of adult education and literacy activities. While the accountability framework generally mirrors Title I, the AEFLA does not contain the rigorous sanctions for failing to exceed performance levels set forth in Title I. However, the eligible agency must annually submit a report to the Secretary of Education⁶ outlining its progress in achieving its performance measures.

Indicators of Performance

As in Title I, each eligible agency⁷ must create a list of performance measures that include (1) the three core indicators of performance outlined below, (2) any additional core indicators established by the eligible agency, and (3) adjusted levels of performance for each core indicator.⁸ The three core indicators of performance are:

1. Demonstrated improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills;
2. Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career development; and
3. Receipt of a secondary school diploma or its recognized equivalent.

The eligible agency may also establish any additional core indicators of performance. The Secretaries of Education and Labor are charged with issuing definitions for indicators of performance and levels of performance, after consultation with a variety of groups, including the State Directors of Adult Education.

⁶ Note the Secretary of Education oversees Title II of the WIA while the Secretary of Labor oversees Title I.

⁷ In Title I, the "State" and the "Governor" carry out the functions that the "eligible agency" performs in the AEFLA and the Perkins Act. The term "eligible agency" is defined in the AEFLA as the sole entity or agency in a state responsible for administering or supervising policy for adult education and literacy in the state. This term replaces the term "state education agency" which had been the sole state administering agency under the Adult Education Act.

⁸ Note that there are no customer satisfaction indicators as in Title I of the WIA.

Levels of Performance

The eligible agency must then establish levels of performance for each of the core indicators. The levels of performance must be expressed in an objective, quantifiable, and measurable form and must show the progress of the eligible agency toward continuously improving performance. The expected levels of performance must be identified in the State Plan for the first three program years covered by the Plan. After the levels are identified, the eligible agency and the Secretary of Education must agree on levels of performance for those three years. The Secretary must take into account (1) how such levels compare with the adjusted levels of performance established by other eligible agencies, and (2) the extent to which the levels promote continuous improvement in performance and ensure optimal return on the Federal funds.

The Secretary of Education and the eligible agency must agree on the levels of performance for the fourth and fifth program years prior to the fourth year. The eligible agency may request approval from the Secretary to revise their indicators and levels of performance for any of the five years in the event of a significant change in circumstances.

Perkins Act of 1998

Postsecondary institutions have considerably greater flexibility in the expenditure of Federal funds under the Perkins Act of 1998. The prescriptive funding gates of Section 235 of the 1990 Perkins Act are removed. In addition, the 1998 Act eliminates the overarching emphasis on serving special populations first. Postsecondary institutions remain subject, however, to the same Pell-based intrastate funding formula and the same \$50,000 funding threshold.⁹

While the emphasis on serving special populations first was eliminated, the new law does require descriptions in the State plan of how special populations will be given equal access to vocational education programs. The new accountability provisions require reporting on the progress of vocational education students with disabilities in meeting academic and skill proficiencies in quantifiable terms. In addition, States must track the number of students with disabilities who obtain diplomas and advance to postsecondary education.

The new Act emphasizes student achievement by tying Federal funding to performance. The framework of performance measure requirements in the Perkins Act has changed and now mirrors that in the WIA. Each eligible agency¹⁰, with input from eligible recipients (i.e. postsecondary institutions and local education agencies), must establish State performance measures consisting of (1) the core indicators of performance outlined in the Act; (2) any additional indicators of performance identified by the eligible agency; and (3) state adjusted levels of performance for each core indicator and additional indicator of performance.

⁹ Postsecondary institutions that would receive less than the \$50,000 minimum may enter consortia.

¹⁰ "Eligible Agency" is defined in the Perkins Act as "a State board designated or created consistent with State law as the sole State agency responsible for the administration or supervision of vocational and technical education in the State." This definition mirrors that in the AEFLA.

The indicators of performance are established solely by each eligible agency with input from eligible recipients. The role of the Federal government is limited to reaching agreement on the percentage of vocational education students that are expected to attain state-adjusted levels of performance. As in the WIA, the Secretary of Education may impose sanctions on States that fail to meet their state-adjusted levels of performance for two or more years.

Core Indicators of Performance

The Perkins Act contains the following four core indicators of performance that must be identified in the State plan:

1. Student attainment of challenging State established academic, vocational, and technical skill proficiencies;
2. Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential;
3. Placement in, retention in, and completion of postsecondary education or advanced training, placement in military service, or placement or retention in employment; and
4. Student participation in and completion of vocational and technical education programs that lead to nontraditional training and employment.

Additional and Existing Indicators of Performance

As in the WIA, additional indicators of performance may be identified in the State plan. The Perkins Act allows a state that previously developed performance measures under Section 115 of the 1990 Perkins Act, measures that meet the new accountability requirements, to continue to employ those performance measures.

State Adjusted Levels of Performance

The State eligible agency must establish levels of performance for each core indicator and identify those levels for the first two program years covered by the State plan. The Secretary of Education must then reach an agreement with the State on the identified levels. The role of the Secretary is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance. Once the levels are agreed upon, they are formally incorporated into the State plan. The levels must be expressed in a percentage or numerical form and must require the State to make continual progress toward improving the performance of vocational students.

The Secretary of Education and the eligible agency must agree on the levels of performance for the fourth and fifth program years prior to the fourth year. The eligible agency may request approval from the Secretary to revise their indicators and levels of performance for any of the five years in the event of a significant change in circumstances. The Secretary of Education must issue objective criteria for making revisions to the adjusted levels of performance.

Improvement Plans and Sanctions

As with the WIA, sanctions are available to ensure that States attain their adjusted levels of performance. The Secretary must provide technical assistance to those States that it determines are not performing their responsibilities under the State plan or are failing to make progress toward attaining their State performance levels.

If a State fails to meet their adjusted levels of performance, the State eligible agency must develop and implement an improvement for the first program year succeeding the program year in which the eligible agency failed to meet the adjusted levels of performance. If the State fails to implement an improvement plan, does not improve within one year after the implementation of an improvement plan, or fails to meet the levels of performance for two or more years, the Secretary may, after notice and an opportunity for a hearing, withhold a portion of the eligible agency's funds. This is the first time that the Secretary of Education has had the authority to sanction state eligible agencies for failing to perform.

The State eligible agency must also annually evaluate, using the State adjusted levels of performance, all recipients of Federal funds. If a local area is not making substantial progress toward achieving the State levels of performance, the eligible agency must assess the needs of the eligible recipient and enter into a local improvement plan.

Annual Report

The State eligible agency must submit an annual report to the Secretary of education that reflects the progress of the State in achieving the state adjusted levels of performance for all of the performance indicators. The report must contain a quantifiable description of the progress of special populations in meeting the State adjusted levels of performance. The Secretary of Education will make this information publicly available and will disseminate a state-by-state comparison.

National Activities

The Secretary of Education must conduct an annual analysis of the performance data collected from the States and submit a report to Congress. The Secretary of Education and the Secretary of Labor are tasked with working together to ensure comparability of data by developing uniform definitions. The National Center for Education Statistics (NCES) will also collect and report information on vocational and technical education for a nationally representative sample of students. All eligible agencies must cooperate in the collection of information. In addition to these activities, the Secretary of Education will provide for an independent evaluation of vocational and technical education programs.

The Secretary is authorized to award competitive grants or contracts to establish a national research center that will be responsible for identifying the most successful methods for addressing the education, employment, and training needs of vocational education students.

COMPARABILITY OF CORE PERFORMANCE INDICATORS

Overall the core data elements required under Titles I and II of the WIA and the Perkins Act are very similar. The focus is on measuring employment entry, employment retention, skill obtainment, and transition success from the program to employment or advanced education and training. As mentioned in the previous discussion regarding the accountability provisions of the new Acts, the Departments of Education and Labor are tasked with developing definitions for the core indicators of performance. During the first week of December, the Department of Education's Division of Adult Education and Literacy met with key stakeholders to obtain advice and recommendations regarding definitions for the core indicators. The draft proposed definitions will be released in January 1999. The Department's Division of Vocational-Technical Education will also distribute guidance on the new accountability provisions and the core indicators contained in the Perkins Act in January 1999.¹¹

The attached Matrix A compares the core performance indicators contained in the Acts to the nine core indicators of success identified by the Department of Labor Core Data Element Workgroup. Some core measures in the Acts combine one or more of these nine indicators into one data element. In addition, one of the core measures in the AEFLA is not covered by the nine elements identified by the Department of Labor since it is specifically tailored toward literacy.

Comparability of Definitions

Congress also sought to use common definitions throughout the Acts. As a result, many terms are defined by using cross-references between the Acts. Many terms used in the Acts, such as "unsubsidized employment" and "dislocated worker" are left undefined. States have the authority to issue their own definitions for such terms.

Both the WIA and the Perkins Act call on the Federal government to work with States and key stakeholders to issue common definitions for essential terms. In addition, the Secretaries of Labor and Education must work together to ensure that data is comparable by developing common definitions.

Matrix B lists the key definitions contained in the Acts and indicates whether they are consistent ("yes") or inconsistent ("no"). If the Act does not include the term, it is indicated by "N/A". While few definitions are contained in more than one of the Acts, where they are, they are very consistent. There are a few exceptions, however. The definition of "eligible provider" is different in Title I of the WIA and the AEFLA and "supportive services" has different meanings in Title I of the WIA and the Perkins Act. This inconsistency is due to the specific programmatic focus of those definitions. In addition, Title I of the WIA defines "postsecondary educational institution" as an "institution of higher

¹¹ Policy Memorandum from Patricia McNeil, Assistant Secretary for Vocational and Adult Education, "Implementation of the Adult Education and Family Literacy Act and the Carl D. Perkins Vocational and Technical Education Act of 1998" dated November 27, 1998.

education" under section 481 of the HEA of 1965 while the AEFLA and the Perkins Act use a different definition.¹²

Barriers

Short Time Frame for Plan Submission

While Congress streamlined workforce investment programs into a more manageable system, it established a short time frame for transition to the requirements of the new legislation. State plans for the AEFLA and the Perkins Act are due by April 2, 1999. The WIA requires approval of a five-year State plan by the Secretary of Labor before States can receive Federal funds under Title I of the WIA. A five-year plan submitted to the Secretary is considered approved after 90 days unless the Secretary makes a written determination during that period that the plan is inadequate. Although States are not required to fully implement all of the requirements of the WIA until July 1, 2000, the Department is encouraging States that are ready to implement early to do so beginning July 1, 1999. All plans are subject to public notice and comment requirements.

The above timelines provide a short period for States to develop plans addressing the new performance indicators and develop levels of performance for those indicators. States may submit transition plans under the AEFLA and the Perkins Act, but those plans still must go through comment and hearing and must address the new requirements of the law. In addition, while the new legislation provides the option of submitting a "unified plan", the coordination and planning required to develop such a plan and comply with the public notice and comment requirements make it very difficult to submit a unified plan by the April deadline.¹³ In addition, while the plan is "unified" the deadlines and requirements for each separate Federal program included in the plan still apply. Therefore, it will be difficult for States to submit unified plans given the many different deadlines for the different programs.

The Department of Education has taken notice of the short time frame for plan submission under the Perkins Act and has provided flexibility to the States in meeting the April deadline. While States may submit a transitional plan under the AEFLA, the Department has not issued additional options for those plans. The Department's Assistant Secretary for Vocational and Adult Education issued a policy memorandum on November 27, 1998 that outlines three options for submission of State plans under the

¹² "Section 481 of the HEA of 1965" defines an "institution of higher education." The definition is lengthy and specific. The definition of "postsecondary educational institution" in the AEFLA and the Perkins Act reads:

The term 'postsecondary educational institution' means—

- (A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;
- (B) a tribally controlled community college; or
- (C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

¹³ As part of Congress' plan to streamline employment and training programs, States may submit a "unified plan" under Section 501 of the WIA that includes at least two of the following (1) secondary vocational education; (2) postsecondary vocational education; (3) adult education and family literacy; or (4) workforce investment activities. For the purpose of the unified plan, secondary and postsecondary activities are considered to be one activity. Therefore, a unified plan cannot contain only (1) and (2) above and satisfy the requirement that the plan contain two or more activities. In addition, if secondary vocational education is included, prior approval of the state legislature is required.

Perkins Act.¹⁴ The memorandum has created considerable confusion and the Department has indicated that it would issue further guidance. Under the first option, States submit a one-year transitional plan for FY 1999 that contains a general description of how certain elements will be addressed in the new plan.

The second option is provided for States that cannot meet the April 2, 1999 deadline because they cannot satisfy the requirements of State and federal law by the deadline. Those states must submit a letter of assurance that addresses (1) goals or objectives the State hopes to achieve, (2) process and timelines for developing the transitional plan in order to comply with the various requirements of the State plan, including the public requirements, and (3) fiscal accountability including the amount of funds to be used to carry out State-level activities and the process to distribute funds within the State. The State then has until May 15, 1999 to submit a transitional plan that addresses the elements required under Option 1.

The third option is unique. It allows States to extend their current Perkins plan with revisions or amendments for one year. To use the third option, the State must clearly explain why it cannot use option one or two and describe how it will move toward implementation of the new Perkins Act. Specifically, the State must address (1) the process and timelines for meeting the new program accountability provisions, (2) the rationale for amendments or revisions; (3) collaborative efforts with other Federal programs and stakeholders; and (4) fiscal accountability. It is not clear whether States must conduct hearings regarding the amendments or revisions to the State plan. In addition, any funds not obligated by June 30, 1999 and carried over on July 1, 1999 must be allocated using the formula set forth in the new law.

Convoluting Statutory Language of the WIA and Pending Regulations

Unlike the AEFLA or the Perkins Act, the WIA requires the Secretary of Labor to publish interim regulations regarding the transition to the Act within 180 days from the WIA's enactment (August 7, 1998). The final regulations must be published by December 31, 1999. The WIA is an extremely long statute and is often convoluted. States are anxiously awaiting the issuance of the regulations from the Department of Labor to clarify confusing language in the Act. The Department recently provided preliminary guidance in the form of questions and answers but does not expect to issue interim regulations until early February. In the meantime, States must develop their five-year plans without additional guidance from the Department.

Extensive Coordination Requirements

Another barrier to the implementation of the new workforce legislation is the requirement of coordination between numerous state agencies and stakeholders. For many of these agencies, it will be the first time that they have worked together or shared responsibility for the implementation of a common program. While many education and labor agencies have simultaneously worked on statutory programs

¹⁴ Policy Memorandum from Patricia McNeil, Assistant Secretary for Vocational and Adult Education, "Guidance for FY 1999 State Plan Requirements" dated November 27, 1998.

with similar goals (i.e. JTPA, Tech Prep, Vocational Education, Adult Education), there was never a requirement that they coordinate activities as required by the WIA and the new Perkins Act. Since the requirement of extensive coordination is novel, it will take some time to establish effective working relationships. Therefore, at least in the short term, the coordination requirements will be burdensome.

Common Data Tracking

Another problem that may arise from this new streamlined workforce system is the lack of common data tracking systems. As previously discussed, many of the performance indicators are common to more than one Act. While consistency of indicators is desirable, it may also create additional barriers to the implementation of the new legislation.

As discussed above, different entities will be administering the Acts (i.e. the State or the eligible agency) and various groups within the State will be reporting data (e.g. local boards, one-stop partners, service providers). The systems currently in place for tracking data among these groups will often be dissimilar. Moreover, while common tracking systems exist for certain programs, the numerous programs and activities included in the one-stop system will likely use different tools to track performance. In addition to the problem of diversity of current assessment tools, some systems may be entirely unable to measure certain indicators. Other systems will require adjustment to measure data for the new core indicators.

The problems regarding data tracking will be most prevalent for those States who choose to submit a uniform plan under the WIA. States will be unable to compare aggregate data if the same data elements are tracked differently. In addition, the Federal government will be unable to compare data across States if the reported information is not uniform.

The new consistency and coordination provisions may require many States to develop and implement common statewide data tracking systems. Since the Acts require local areas to report performance data and information which will then be consolidated at the State level, the data tracking system must extend to the local providers if the data is to be consistent. The implementation of a new statewide system would be costly and would require extensive coordination at all levels.

An initial challenge for States and local areas will be identifying the appropriate tools to assess performance in accordance with the new core indicators. In addition, performance assessments must be coordinated with the delivery cycle for vocational education and for the other required programs and activities. The varying delivery cycles may produce timing problems in reporting complete and accurate data.

CONCLUSION

Overall, while Congress fell short of consolidating the ambitious number of programs it originally intended, it made significant progress toward streamlining the accountability requirements of the various workforce development programs. The data requirements and definitions contained in the WIA and the Perkins Act are substantially similar. Although there are barriers to the implementation of

the Acts, the new legislation will result in greater consistency among data elements, performance measures, and definitions of key terms.

Matrix A: Core Performance Indicators

Indicator	Perkins	Adult Ed	WIA	Comments
Entered Employment Rate: Attainment of a job during, or the quarter after, receiving workforce development services excluding people who are in job training or education services who did not get a job and people who maintain their current job.	X	X	X	
Annual Earnings Gains: 12 Month earnings minus any earnings they may have had during the 12 months before receiving work development services			X	The WIA measures earnings 6 months after employment for adults and dislocated workers (not for youth).
Employment Retention: Percent of people who got a job and remained employed up to one year	X	X	X	Perkins – no time specification WIA – 6 months after employment
Post Employment Ratio of Self-Sufficiency: 12 month earnings compared to the average annual cost of living for a family of 3 who live in the same area.				
Occupational Skill Attainment: Percent of people 16 and older who get a college degree, complete an occupational or advanced job skill training program, or enter an apprenticeship program	X	X	X	Perkins: completion of voc and tech ed programs leading to non-traditional employment and training; completion of a postsecondary degree or credential.

Matrix A: Core Performance Indicators (continued)

Indicator	Perkins	Adult Ed	WIA	Comments
Basic Skills Attainment: Percent of people 16 and older who complete basic skills training that leads to or includes graduating from high school or getting a GED			X	Youth only. Combined with skill attainment for adults and dislocated workers.
Transition Success Rate: Percent of people who go on to employment and/or an advanced level of education/training	X	X	X*	*Only applies to youth under Title I of the WIA
Job Opening Fill Rate: Percent of the workforce development system job openings filled by workforce development system applicants				
Customer Satisfaction: Degree to which customers are satisfied with the services provided			X	The WIA does not identify customer satisfaction as a core indicator but requires a separate set of customer satisfaction indicators.

Matrix B: Consistency of Key Terms

Term	Perkins	AEFLA	Title I of WIA	Comments
Adult Education	N/A	Yes	Yes	WIA refers to AEFLA definition
Area Vocational Education School	Yes	N/A	Yes	WIA cites the Perkins Act definition
Basic Skills Deficient	N/A	N/A	Yes	
Case Management	N/A	N/A	Yes	
Chief Elected Official	N/A	N/A	Yes	
Community-Based Organization	N/A	N/A	Yes	
Customized Training	N/A	N/A	Yes	
Displaced Homemaker	Yes	N/A	Yes	The WIA does not contain the public assistance recipient clause included in the Perkins Act.

Matrix B: Consistency of Key Terms (continued)

Term	Perkins	AEFLA	Title I of WIA	Comments
Economic Development Agencies	N/A	N/A	Yes	
Educational Service Agency	N/A	Yes	N/A	
Eligible Agency	Yes	Yes	N/A	Title I of the WIA is administered by the "State" and not an "eligible agency"
Eligible Institution	Yes	N/A	N/A	
Eligible Provider	N/A	No	No	The term "eligible provider" in Title I is much more complex than in Title II.
Eligible Recipient	Yes	N/A	N/A	
Eligible Youth	N/A	N/A	Yes	
Employment and Training Activity	N/A	N/A	Yes	

Matrix B: Consistency of Key Terms (continued)

Term	Perkins	AEFLA	Title I of WIA	Comments
Family Literacy Services	N/A	Yes	N/A	
Individual with a Disability	Yes	Yes	Yes	As defined by the ADA.
Individual with a Limited English Proficiency	Yes	Yes	N/A	Identical definitions
Institution of Higher Education	Yes	Yes	Yes	
Labor Market Area	N/A	N/A	Yes	
Literacy	N/A	Yes	Yes	
Local Educational Agency	Yes	Yes	Yes	ESEA Definition
Lower Living Standard Income Level	N/A	N/A	Yes	

Matrix B: Consistency of Key Terms

Term	Perkins	AEFLA	Title I of WIA	Comments
Nontraditional Employment	Yes	N/A	Yes	One gender comprises less than 25% of the individuals employed in the occupation or field of work
Out-of-School Youth	N/A	N/A	Yes	
Outlying Area	Yes	Yes	Yes	
Postsecondary Educational Institution	Yes	Yes	No	The WIA uses the HEA definition of an "institution of higher education"; AEFLA and Perkins have the same definition.
Rapid Response Activity	N/A	N/A	Yes	
Special Populations	Yes	N/A	N/A	
Supportive Services	No	N/A	No	Program-specific definitions.
Vocational Education	Yes	N/A	Yes	WIA cites Perkins Act definition